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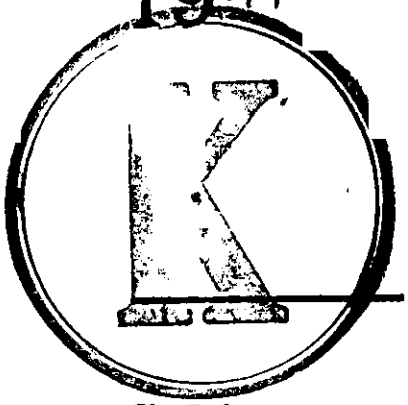

File No. O. Public Conveyance /41

Legal **DEPARTMENT**

A **BRANCH**

Subject:— PHF

Opinions under the Bombay Public Conveyance Act 1920.

File No. O. Public. Conveyance/41.

Std. Sectt. Slip 24 B e.

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Submitted.

Please see the letter from the Secy. Provl. Transport Authority, Bombay at p.1 ante. In rule 90 of the Public Conveyance (Motor Vehicles) Rules, 1932, framed under section 11 of the Indian Motor Vehicles Act, 1914 there was a provision requiring the officer at the police station to arrange for the hearing of the dispute (over fare to be paid between the motor cab driver and the hirer at the next sitting of a Magistrate's Court. But in para. 9 of R.L.A.'s opinion No. 3120 dated 29-3-1940 it was held that there is no authority in the Motor Vehicles Act, 1939 for making such a provision in the rules made thereunder. In a later opinion R.L.A held that such a provision in the Rules would be impracticable and ultra vires of the Motor Vehicles Act. (Pl. see para. 2 of R.L.A's No. 5862 dated 27.6.40). In view of the admittedly genuine grievance of the taxi drivers, R.L.A. is requested to suggest some remedy for the difficulty experienced by the taxi drivers in recovering their ~~fares~~ fares.

2. The R.L.A. has already held in his opinion No. 3120, dated 29.3.1940 and No. 5862, dated 27.6.1940 that a rule requiring the officer at the Police Station to arrange for the hearing of the dispute (over fare to be paid) would be ultra vires of the Indian Motor Vehicles Act, 1939. Unless therefore the Act is suitably amended it would

not be possible to make such a provision in the rules. It is suggested by the Secy. Provl. Transport Authority, to amend the Bombay Public Conveyances Act, 1920 so as to include "motor cabs" in the term "public conveyances" for the purposes of sections 28 and 31 of the Act. Section 31 of the said Act relates to the determination of any dispute between the hirer and driver in a summary manner by the Magistrate and section 28 provides for payment of compensation by a person who wilfully inquires the public conveyance. The Act relates to the regulation of public conveyances. "Public Conveyance" means a wheeled vehicle, drawn by one or more horses or other animals or by hand, which is used for the purpose of playing for hire for the conveyance of persons or goods. It cannot therefore include a "motor-vehicle" as defined by section 2(18) of the Indian Motor Vehicles Act, 1939. It appears however that if sections 28 and 31 of the Bombay Public Conveyances Act, 1920 are so amended as to bring "motor vehicles" within the purview of the provisions of those sections it will not be outside the scope of this Act. It is stated in the S.O.Rs to this Act that it will apply to only Land conveyances. Although therefore the proper place to make

S.C.

Office of the R.L.A.

The remedy suggested by the Secretary, Provincial Transport Authority, namely to amend the Bombay Public Conveyances Act, 1920, so as to cause the term "public conveyances" to include motor cabs for the purposes of sections 28 and 31 of that Act is not legally feasible. The Bombay Public Conveyances Act is intending to apply only to public conveyances as defined in section 2(b) of the Act and it will not be possible to apply only sections 28 and 31 of the Act to motor cabs. The Provisions of these sections have got to be read with the other provisions of the Act. For instance, the dispute referred to in section 31(1) may rela te to the legal fare payable by the hirer. The legal rates of fares are fixed under section 18 of the Act, in respect of public conveyances as defined in the Act. These rates will not be applicable in case of motor cabs. The term "Motor cab" is not defined in this Act but in the Motor Vehicles Act, 1939, which is the Act containing the law relating to suchvehicles. The proper remedy therefore, in this case is to amend suitably the Motor Vehicles Act, 1939. The Provincal Government is competent to undertake legislation for amending this Act (see entry 20 of the Concurrent Legislative list of the Government of India Act, 1935).

Remembrancer of Legal Affairs.

U.R. to the G.D. No. 690 dated the 24th January 1941.